

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Safety Kleen Systems, Inc.
2120 South Yale Street
Santa Ana, California 92704
CAT 000613976

Respondent.

Docket HWCA 2005-0971

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Safety Kleen Systems, Inc., (Respondent) enter into this Consent Order and agree as follows:

1. Respondent generates handles, treats, and stores hazardous waste at 2120 South Yale Street, Santa Ana, California 92704 (Site).

2. The Department inspected the Site on October 11-12, 2005.

3. The Department alleges the following violations:

3.1. The Respondent violated Hazardous Waste Facility Permit General Conditions, section II. O. 1., and California Code of Regulations (CCR), title 22, section 66270.30(a), in that on or about October 12, 2005, Respondent failed to comply with all laws, regulations, and permits, established by state and local agencies. Respondent operated four aboveground barrel washers treating hazardous waste solvents without obtaining a permit from the local South Coast Air Quality Management District.

3.2. The Respondent violated CCR, title 22, section 66264.71(a)(1), in that on or about October 11, 2005, Respondent failed to sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received.

3.3. The Respondent violated CCR, title 22, section 66264.73(b), in that on or about October 11, 2005, Respondent failed to record the location and date of storage/handling of each hazardous waste received at the facility.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

SCHEDULE FOR COMPLIANCE

9. Respondent shall comply with the following:

9.1.1. Respondent certified through its submittal dated November 10, 2005 and January 5, 2006, that the violations alleged above have been corrected.

9.1.2. Respondent hereby agrees to send the following employees to the California Compliance School Modules I through IV:

Warren Senton - Lead Material Handler
Luda Adenskaya – Environmental Health and Safety Manager

Attendance must be completed and Respondent must submit a Certificate of Satisfactory Completion to the Department within 185 days of the date of this Consent Order. If Respondent fails to submit the Certificate of Satisfactory Completion as required, the penalty of \$5,000 referenced in paragraph 10.1 of this Consent Order, is due and payable within 30 days after the expiration of the 185-day period. The 185-day period may be extended by the Department upon written request demonstrating good cause from Respondent.

9.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Carmelita Lampino, Unit Chief
Statewide Compliance Division
Cypress Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

9.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

9.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

9.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

9.6. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order,

Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.7. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 11.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

9.8. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

9.9. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.10. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

10. Within thirty (30) days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$11,269, of which \$9,349 is a penalty and \$1,920 is reimbursement of the Department's costs. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall identify the Respondent and Docket Number as shown in the heading of this Consent Order.

Respondent shall deliver the payment together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Carmelita Lampino, Unit Chief
Statewide Compliance Division
Cypress Branch
Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, California 90630

10.1. If Respondent fails to submit the Certificate of Satisfactory Completion as required and specified in paragraph 9.1.2 of this Consent Order, a penalty of \$5,000 is due and payable within thirty (30) days after the expiration of the 185-day period allowed for completion of the course and submittal of the Certificate.

10.2. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

11.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

11.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Consent Order.

11.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or California Regional Water Quality Control Board.

Dated: June 27, 2006

Original signed by Virgil W. Duffie
Virgil W. Duffie, Assistant Secretary
Safety Kleen Systems, Inc.

Dated: June 28, 2006

Original signed by Carmelita E. Lampino
Carmelita Lampino, Unit Chief
Statewide Compliance Division
Cypress Branch
Department of Toxic Substances Control